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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/811,942

03/30/2004

James Chyvan Moore

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05/04/2006

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EXAMINER

LAYNO, BENJAMIN

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 05/04/2006

8.

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/811,942

Applicant(s)

MOORE ET AL.

Examiner

Benjamin H. Layno

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-17,19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-17,19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112, 1st Paragraph

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1, 2, 4-17, 19 and 20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. **The claim(s) contains subject matter which was not described in the specification** in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is **no mention** in the Applicant's specification, abstract, drawings, or even in the attached letter Exhibit A of the claimed "allowing each of the players to pay an optional discard fee, which is a percentage of the amount bet, **before any cards area dealt**".

Response to Arguments

3. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 4-11 and 12-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broadnax in view of Jones et al.

The patent to Broadnax discloses a Blackjack game having many of the steps recited in claims 1-11 including dealing two cards to each of the players and to a dealer, allowing each player to discard one of the cards that the player has been dealt, if the player pays a fee, see column 2, lines 14-19 and column 3, lines 17-22. The player cannot pay a fee and discard a card if player has a card of a specific rank (e.g. if the first two cards make a pair, the player may split them, but cannot exercise the option to pay a fee and replace a card, column 3, lines 3-4, and see claim 7). After paying the fee and discarding a card, the player is dealt a replacement card. The conventional game of blackjack is then played.

The patent to Jones et al. (Caribbean Stud Poker) teaches that it is known in blackjack games that have optional side bets (progressive jackpot component 20), to require that the optional side bet be placed **before** any cards are dealt, col. 3, lines 10-23 and see claim 1 of Jones et al.

In view of Jones et al. teaching, it would have been obvious to modify Broadnax' game rules by requiring that Broadnax' optional fee be paid **before** any cards are dealt. This modification would have been a casino management decision in order to increase the house advantage.

Concerning, claims 12 and 17, in Broadnax' game, determining in what situations (e.g. player's first two cards are not a pair, total point value of the player's first two cards

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is 18 or less, total point value of the player's first two cards is 16 or less, dealer has 21 and player has an Ace or a 10,.....etc.) a player is allowed to place a fee, discard a card, and receive a replacement card, is considered a casino management decision that is always obvious in the art.

In regard to claim 14-16, Broadnax discloses that the fee paid by the player to discard one card is a fixed percentage (e.g. "place a bet equal to the original bet", col. 2, lines 14-15) of the amount bet by the player. Determining exactly the amount of the Broadnax fee (e.g. equal to the original bet, 10% of the original bet, 20% of the original bet,.....etc.), and determining in what situations the fee is to be refunded to a player, are also considered a casino management decisions that are always obvious in the art.

In regard to claim 19, it is well known and obvious to deal one of the first two cards dealt to a dealer, one card face up and one card face down in order to provide a house advantage.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Broadnax in view of Jones et al. as applied to claim 13 above, and further in view of Herron et al.

The patent to Herron et al. discloses a blackjack game played similar to Broadnax. Herron et al. teaches that it is known in the blackjack gaming art to provide an electronic video game version of blackjack, Fig. 4, column 5, line 36 to column 6, line 5. In view of such teaching, it would have been obvious to provide an electronic video

game version of Broadnax blackjack game in order to attract less experienced blackjack players who are intimidated by table games.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571)272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
Art Unit 3711

bhl